

# **EXHIBIT C**

 COPY

1 THE STATE OF NEW YORK : COUNTY OF CORTLAND  
2

3 CITY OF CORTLAND COURT  
4

5 CRIMINAL PART  
6

7 -----x  
8 The People of the State of New York, Plea/Sentencing  
9 -against- Docket 04/38911  
10 JAMES H. GOULD, (CD/AUDIO)  
11 Defendant.  
12  
13 -----x  
14

15 June 28th, 2005  
16 25 Court Street - City Hall  
17 10:30 a.m.  
18 Cortland, New York 13045  
19

20 Before: HON. THOMAS A. MELDRIM,  
21 City Court Justice  
22

23 APPEARANCES:  
24

25 DAVID HARTNETT, CORTLAND COUNTY DISTRICT ATTORNEY  
46 Greenbush Street - Suite 302  
Cortland, New York 13045  
BY: WENDY FRANKLIN, Assistant District Attorney  
26

27 TRACY & EDWARDS, Esqs.  
28 Attorneys for Defendant Gould  
317 South Little Tor Road  
New City, New York 10956  
BY: JOHN S. EDWARDS, Esq., Of Counsel  
29

30 Transcribed by: Patricia A. Puleo, NYS Court Reporter  
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- Proceedings -

2 THE COURT: Good morning, Mr. Edwards and  
3 Mr. Gould and Ms. Franklin.

I will note that we have before us here  
this morning is the People of the State of New  
York versus James H. Gould.

We have Mr. Gould present with his attorney Mr. Edwards.

We have Ms. Franklin from the District Attorney's office.

15 MS. FRANKLIN: That's correct, Your Honor.

16 THE COURT: Which outlines the agreement  
17 with respect to the disposition.

18 Before we proceed, Mr. Edwards anything  
19 you would like to say procedurally about how we  
20 are going to go forward here today and we have  
21 got some motions pending, so I just want to make  
22 sure we resolve everything at today's session.

23 MR. EDWARDS: Your Honor, it is my  
24 understanding that Mr. Gould would enter a plea  
25 of Guilty to Harassment, in the second degree. a

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violation.

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THE COURT: We are not picking you up on  
the mic, so maybe you can step up here with your  
attorney please we don't have the mics on the  
table right now, so --

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MR. EDWARDS: Your Honor, it is my  
understanding that Mr. Gould will be entering a  
plea of Guilty this morning to Harassment in the  
Second Degree as a violation and that the  
parameters of the sentence will be in accordance  
with the letter to which you have made reference.

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15

Subsequent to receiving that letter, and  
before communicating with the Court that there  
was a disposition, I spoke with Ms. Franklin.

16

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19

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21

It was something we had discussed at one  
point in time in Chambers that the allocution  
that is required will be limited to that which  
-- or to the admissions that he had made on the  
evening of the occurrence and that was acceptable  
to Ms. Franklin.

22

23

THE COURT: Do have those admissions in  
front of you?

24

25

MR. EDWARDS: I have a copy of the police  
report.

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THE COURT: I'm sure I have those somewhere  
in there.

4

MR. EDWARDS: Reference filed April 25,  
2004, I'm not sure that -- well, it's in the  
area of 4/24/04 but not otherwise dated -- I'm  
sorry; at the end it is dated 4/24/04 yes.

8

THE COURT: And the subsection that we were  
going to be speaking of, assuming we are going to  
reference a specific subsection.

11

MR. EDWARDS: Excuse me a moment, please.

12

(Off-the-record-discussion.)

13

MR. EDWARDS: Okay, Your Honor. It is  
240.26, Subdivision 3.

15

THE COURT: And Mr. Gould you have  
discussed this disposition with your attorney,  
Mr. Edwards?

18

MR. GOULD: Yes, I have.

19

THE COURT: And you are satisfied with this  
disposition?

21

MR. GOULD: Yes, I am Your Honor.

22

THE COURT: You are satisfied with the  
services provided by your attorney?

24

MR. GOULD: Yes, I am.

25

THE COURT: You understand that you are

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going to be giving up certain rights should we  
proceed to a plea here today?

4

MR. GOULD: Yes.

5

THE COURT: You have a right to a Jury  
trial. You will be giving that right up.

7

Do you understand that?

8

MR. GOULD: Yes, I do.

9

THE COURT: You have a right to testify.

10

You are giving up that right. Do you understand  
that?

12

MR. GOULD: Yes.

13

THE COURT: You have a right to call  
witnesses. You are giving up that right.

15

You have a right to have the People prove  
the charges beyond a reasonable doubt.

17

Do you understand that?

18

MR. GOULD: Yes, I do Your Honor.

19

THE COURT: Okay. And you would be  
pleading Guilty to a violation, not a crime;  
Penal Law 240.26, Subdivision 3, Harassment in  
the Second Degree, which carries a maximum  
punishment of fifteen days in jail, a fine up to  
\$250, court charges in the amount of \$95.00.

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You do understand that?

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MR. GOULD: Yes.

3

THE COURT: Which states that a person is guilty of Harassment in the Second Degree, when with intent to harass, annoy or alarm another person, when he or she engages in a course of conduct or repeatedly commits acts which alarm or seriously annoy such other person and which serves no legitimate purpose, so the essential elements are that it would be an intent to annoy harass or alarm that you engaged in a course of conduct or acts repeatedly that would annoy such person and serve no legitimate purpose.

14

Do you understand all of that?

15

MR. GOULD: Yes, I do Your Honor.

16

THE COURT: We were going to note on the record that the plea of Not Guilty is withdrawn.

18

MR. EDWARDS: It is, Your Honor.

19

THE COURT: And the People are consenting to Mr. Edwards' motion to amend to Penal Law 240. 26, subdivision 3 or otherwise joins in that motion?

23

MS. FRANKLIN: That's right, Your Honor and at this point I guess we would also like it very clear on the record that Mr. Edwards will be

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withdrawing his motions and all of those things.

3

Mr. Edwards: We withdraw all motions previously made, decided or undecided, yes, as a condition of the disposition.

6

THE COURT: Now, the People have made a representation with respect to the disposition which I have before me, that the letter dated May tenth, the sentencing would include a one-year conditional discharge and any form of treatment deemed appropriate.

12

I guess I am a little bit confused as to what would be appropriate, given the fact that this gentleman I believe, as previously represented, has had an evaluation and that evaluation did not recommended any treatment.

17

MS. FRANKLIN: That's fine, Your Honor.

18

THE COURT: So, we wouldn't be agreeing that he engage in any treatment.

20

A permanent one-year Order of Protection on behalf of the victim or in favor of the victim will issue.

23

That will be a Court Order, which will expose you to some potential liability if you violate that Order, which is the Class "A"

24

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Misdemeanor of Criminal Contempt and it was  
agreed and recommended that you complete fifty  
hours of community service at a location that  
does not involve children.

6

MR. GOULD: Yes, Your Honor.

7

THE COURT: And I think I would be looking  
to Counsel and to the Defendant for some  
direction with respect to an appropriate site  
that the Court would approve.

11

We would be noting that insofar as you can  
waive such rights, you would be waiving any  
appeal rights.

14

You will be waiving your speedy trial  
rights under the Criminal Procedure Law with  
respect to a general speedy trial, as well as  
statutory speedy trial.

18

You will waive that condition and you  
would allocute at the time entry of this plea.

20

Those are the general conditions of this  
plea.

22

Any questions about those, from your  
prospective, Mr. Edwards, Mr. Gould or Ms.  
Franklin?

25

MR. EDWARDS: Your Honor, with respect to

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to the community services, as we had indicated in  
3 a past conference, in anticipation of a possible  
4 disposition and whether there was one or not,  
5 Mr. Gould had engaged in community service with  
6 Meals on Wheels in Orange County.

7

THE COURT: Okay, so we would ask that  
8 that service, when documented, be considered in  
9 satisfaction of the agreed upon condition.

10

THE COURT: Assuming that you can forward  
11 to the Court a letter from the agency indicating  
12 that, when it will be acceptable for Mr. Gould to  
13 complete the community service at that agency.

14

MR. EDWARDS: Yes, he has already done so  
15 Your Honor; not the letter, but the community  
16 service.

17

THE COURT: That is completed you are  
18 saying?

19

MR. EDWARDS: Yes, it was done during the  
20 course of these proceedings and in the  
21 expectation that when or if a disposition was  
22 reached, it would include some form of community  
23 service.

24

I think it may have been in response to  
25 the initial plea offer when we received the

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letter.

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THE COURT: That community service  
completion and the way it was done, that will be  
satisfactory to the People?

6

MS. FRANKLIN: Yes, Your Honor. That is  
fine.

8

9

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11

THE COURT: Now, understanding all of  
that, the Court is now granting the motion to  
plead to Penal Law 240.26, subdivision 3,  
Harassment in the Second Degree, a violation.

12

13

Mr. Gould, how do you plead to that  
charge?

14

MR. GOULD: Guilty, Your Honor.

15

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THE COURT: Okay, now I am looking in  
front of me at statements that were made by you  
allegedly to a police officer, the police officer  
who investigated this particular incident.

19

20

21

22

That would have been Officer Abbott.  
Those statements were attached to the Accusatory  
and I believe that is what we intend to rely on  
here with respect to this plea.

23

24

We are noting also that this is bargained  
for plea.

25

Correct?

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MR. EDWARDS: Yes.

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THE COURT: Allowing this Defendant to  
plead to a lesser offense than what he was  
charged with?

4

MR. EDWARDS: Yes.

5

THE COURT: And you do knowledge that it,  
it's in your best interest to enter this plea  
here today?

6

MR. GOULD: Yes, I do Your Honor.

7

THE COURT: Now, those statements relate  
to the report of April 24th, 2004, which is the  
date of this incident herein in the city of  
Cortland.

8

Do you knowledge on that date that you did  
approach a fourteen-year-old, so-stated kid in  
this statement.

9

Is that correct?

10

MR. GOULD: Yes, I did, Your Honor.

11

THE COURT: And he did not approach you,  
but you approached him?

12

MR. GOULD: That is correct.

13

THE COURT: And did you ask him where a bar  
was?

14

MR. GOULD: I did, Your Honor.

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THE COURT: Okay, and did you further ask  
him where a gay bar was?

4

MR. GOULD: No, I did not, Your Honor.

5

THE COURT: Well, that is in your  
statement. Maybe you want to review that  
statement?

6

MR. EDWARDS: Your Honor, the statements  
indicate that he was asked that.

7

THE COURT: So, you are not saying that  
you asked that, but that was the statement of the  
Officer?

8

MR. GOULD: That's correct.

9

THE COURT: You are clear here in stating  
that you did approach a fourteen-year-old, on  
your own, without any -- without the young man  
approaching you and you asked him where a bar  
was?

10

MR. GOULD: That's correct, Your Honor.

11

THE COURT: Is there anything more that we  
want to ask this defendant here, Ms. Franklin?

12

MS. FRANKLIN: Well ---

13

THE COURT: I'm just looking at your letter  
--- I mean I am looking at his statement and we  
understand he is pleading to a lesser offense, a

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bargained for plea.

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You want to make certain that that  
allocution is satisfactory to the People, is  
satisfactory to the defendant and Counsel for the  
defendant, as well as the Court.

4

Understanding that the Court would be  
accepting the plea to this lesser offense, is  
that allocution satisfactory to you?

5

MS. FRANKLIN: Yes, Your Honor, it is.

6

THE COURT:.. Now, Mr. Edwards?

7

MR. EDWARDS: It is, Your Honor.

8

THE COURT: Okay, so I am going to accept  
your Guilty plea, subject to what we have said  
with respect to the items set forth in the  
letter of May tenth.

9

Now, with respect to sentencing, I know  
there is no agreement with respect to the  
sentence, but I think I made it plain and clear  
that I am going to follow the recommendations of  
the People.

10

I think this was agreed upon between the  
parties, something that I had previously  
indicated to Counsel that seemed to be an  
appropriate disposition in this matter.

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Anything further that the People want to  
say before I proceed to sentence?

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MS. FRANKLIN: No, Your Honor.

5

THE COURT: Now, Mr. Edwards?

6

MR. EDWARDS: Well, Your Honor, as we  
have discussed in the past, albeit in Chambers  
and not on the record, I have known Mr. Gould for  
the better part of twenty, plus years.

10

I know him. I know his wife. I know all  
of the members of the family.

12

I know the type of person that he is. He  
is a good father. A good husband and a long  
standing employee of the County of Rockland for a  
little over 25 years, without any prior  
incidents.

17

His conduct to that extent, constitutes a  
violation. It is clearly aberrational on his  
part, an exercise of undoubtedly, poor judgment  
and something that I fully expect will never be  
repeated.

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We have provided Your Honor for the  
purposes of review, as we had with the DA's  
Office, an evaluation by a well respected, local  
forensic psychiatrist, who was the forensic

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psychiatrist at the Rockland County Family Court  
for more than twenty years and who was the  
forensic, the exclusive forensic examiner for  
Family Court matters and he has reported to the  
Court that Mr. Gould does not or is not in need  
of any treatment at this time and this conduct  
was aberrational at best.

9

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So, under the circumstances, Your Honor,  
we think the disposition is an appropriate one  
and that the conditions to which we have agreed  
with the District Attorney, as part of that  
disposition, are appropriate and I would ask that  
the Court honor that agreement and impose the  
sentence, as set forth in the May tenth letter,  
which embodies part of the agreement.

17

18

THE COURT: Is there anything that you

would like to say, Mr. Gould?

19

MR. GOULD: No thank you, your Honor.

20

21

22

23

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25

THE COURT: This matter is finally coming  
to a conclusion and I am accepting your plea and  
imposing the sentence based upon my review of all  
of the circumstances, including many of the  
documents that have been submitted in court with  
respect to your background, your lack of any

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prior criminal history, as well as all of the  
3 issues that have been raised by your attorney and  
4 I would say that you certainly have been well  
5 represented in this matter.

6

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9

I am going to therefore impose the  
following sentence, a conditional discharge for a  
period of one year, terms and conditions of which  
will be in writing.

10

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16

There will be one, special condition, in  
addition to the statutory, general conditions,  
and that is that the Defendant shall provide the  
Court with proof of completion of fifty hours of  
community service at a site acceptable to the  
Court, prove to be provided to the Court on or  
before July fifteenth of 2005.

17

18

19

20

So, I am assuming you can get me a letter  
from the provider on the letterhead indicating  
that he has completed fifty hours community  
service.

21

22

23

24

I think it would be helpful if you  
indicated the dates that he completed that  
service so that we know it was done subsequent to  
this arrest, okay?

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MR. EDWARDS: Yes.

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THE COURT: In addition, I will be signing  
3 a permanent Order of Protection --- now, when I  
4 say a permanent Order, it a one-year Order of  
5 Protection and it is in favor of the victim.

6

We recognize that you don't live here and  
7 the victim lives here, so we don't anticipate any  
8 problem.

9

The Order does say "...no communication,  
10 no contact", so that means just what it says; no  
11 phone calls, e-mails, nothing, no letters of  
12 apology or whatever.

13

You are just not going to have any contact  
14 with this person. If it is alleged that you do  
15 have some contact, then you could be charged with  
16 criminal contempt.

17

You certainly don't want to have that

18 happen.

19

In addition, the Court had considered the  
20 imposition of a fine, which I could impose up to  
21 \$250.

22

I think, given all of the circumstances  
23 as I find them, that would serve no legitimate  
24 purpose in this instance,

25

Therefore, I will --- I will not be

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imposing a fine.

3

I am going to impose court charges in the amount of \$95.00.

5

When can you pay that?

6

MR. GOULD: Today.

7

THE COURT: You can do it by credit card or by going down the hallway and get it taken care of.

10

MR. GOULD: Yes.

11

THE COURT: As an Officer of the Court I think I will have you serve the Order of Protection if you can do that, Ms. Franklin, rather than call an Officer in.

15

MS. FRANKLIN: Yes.

16

THE COURT: Off-the-record.

17

THE COURT: Mr. Edwards, will you have Mr. Gould sign that?

19

MR. EDWARDS: Yes. Off-the-record.

20

THE COURT: You, Mr. Edwards have a copy for your client and here's a copy of the Order of Protection, one for your file also, Ms. Franklin.

23

That should conclude the matter here today.

25

Any questions?

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MR. EDWARDS: Yes, one item, Your Honor,  
pursuit to Section 160.55 or 160.50, there is a  
sealing order, with the exception of the Court's  
records, and I request that we enter that order.

6

THE COURT: That will be entered.

7

MR. EDWARDS: Thank you.

8

THE COURT: Thank you very much.

9

MR. GOULD: Thank you, your Honor.

10

THE COURT: Good luck to you.

11

You can go down the hallway and take care  
of that fine.

12

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1 STATE OF NEW YORK )  
2 COUNTY OF CORTLAND ) ss:  
3  
4

5 I, Patricia A. Puleo, certify that I am a New York State certified  
6 Court Reporter, Notary Public and certified 4-track and digital recorder  
7 transcriber.

8 I further certify that the foregoing transcript of audio taped  
9 proceedings regarding the matter of **the People of the State of New York**  
10 versus **JAMES H. GOULD**, prepared to the best of my abilities, using  
11 digital electronic transcription equipment and CD-Rom(s) or 4-track audio  
12 tapes as provided by **CORTLAND CITY COURT**, and is a true and  
13 accurate transcript of said proceedings.  
14

15  
16   
17

18 Patricia A. Puleo, Court Reporter  
19 Dated: 10/25/05  
20

21 Patricia A. Puleo, N.Y.S. Certified Court Reporter  
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